

Valuation News

October/November 2005

As part of our ongoing effort to provide valuable information to our network of Attorneys and CPAs, Crandall & Brackett, Ltd., publishes this Quarterly "*Valuation News*" to present recent developments in the valuation field. If you have any questions or comments, please do not hesitate to give us a call. Please verify we have your correct address and call, fax or e-mail any changes. (telephone; 630-653-7922, fax; 630-653-7804, e-mail; robert@crandall-brackett.com, web-site; www.crandall-brackett.com).

IRS:

The IRS has been extremely successful in late 2004 and all of 2005 in arguing at tax court and again, at appellate court, on the 2036(a) issue. Many, if not most, of the 2002 and 2003 cases in which the IRS lost 2036(a) issues at trial, were successfully appealed (e.g. Strangi). Please ensure your clients operate their FLP's and LLC's as stand alone entities, not as their own personal checking account. We recommend automatic monthly management fee transfers into their personal accounts.

Always Something New:

We received an interesting call the other day concerning an estate tax return which owned (in entirety) a semi-dormant entity. That entity owned a small checking account and a patent with a single licensee that was insolvent, owed three years of back royalties, but; had a lawsuit for millions of dollars (patent infringement) which they had won but were still in the LONG collection phase. The question was, "Do they have to have a valuation performed when the estate won't get a penny for two to ten years?" (if ever).

Sarbanes-Oxley

The Sarbanes-Oxley Act is forcing business owners to use unrelated (to their accounting firm) business valuation and damage experts. The IRS has attempted to force use of such disinterested parties for years. It is only a matter of time before the first question that judges, bankers, etc. will ask when reading a valuation report is "*What other services does XYZ Valuation perform for this firm?*" We encourage attorneys and estate planning advisors to expand their network of valuation (and damage) experts.

Independence:

The pendulum appears to still be swinging to the conservative side. Although it is still only rumor (we have NO CONFIRMATION from our IRS sources), the IRS is apparently about to release a revenue ruling, regulations, or another document which will make it very difficult for the tax preparer to perform the valuation used within that return.

AICPA:

The AICPA Business Valuation Standards which were expected to be placed in effect in January 2006 have been delayed, AGAIN. When they do eventually go into effect, the last group of valuers without specific standards will have the toughest standards in the business.

Questions?

We encourage our readership to call with easy or hard questions. We are always happy to provide our input with respect to your (or your client's) need for a business valuation or critique of opposing counsel's position. We look forward to saying hello, or answering specific inquiries.

Please remember... The Arthur L. Crandall Award for Excellence in Accounting at Roosevelt University. Should you wish to contribute to its success, please contact us or send your donations directly to Roosevelt University (Development Office 430 South Michigan Avenue, Chicago, Illinois 60605).

Interesting Cases:

Albert Strangi et al. v. Commissioner (No. 03-60992, U.S. Court of Appeals, Fifth Circuit, July 15, 2005)
Re: Section §2036(a).

Estate of Jelke v. Commissioner, (T.C. Memo 2005-131, May 31, 2005)
Re: Built-in Gain, Marketable Securities, Discount for Lack of Control, Discount for Lack of Marketability.

Estate of Tehan v. Commissioner (T.C. Memo 2005-128, May 31, 2005)
Re: Section 2036(a).

Estate of Abraham v. Commissioner (U.S. Court of Appeals for the First Circuit, May 25, 2005)
Re: Section 2036(a).

Estate of Charles Porter Schutt v. Commissioner (T.C. Memo 2005-126, May 26, 2005)
Re: Section 2036(a).

Estates of Eda and Austin Korby v. Commissioner (T.C. Memo 2005-103, May 10, 2005)
Re: Section 2036(a).

Estate of Helen M. Noble v. Commissioner (T.C. Memo 2005-2, January 6, 2005)
RE: Subsequent sale, Strategic Value.

Crandall & Brackett, Ltd. and its predecessors have been serving Attorneys, CPAs and Estate Planners since 1965.

Our practice is business valuations – always performed in conjunction with the Company’s accountant and/or attorney.

Our 24 hour availability and extensive library have been invaluable to attorneys and CPAs alike.

Call us with your questions or for a quote on a valuation project.

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